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**SECOND ANNUAL REPORT**

of the

**SOUTH CAROLINA  
SECOND INJURY FUND**

to the

**GENERAL ASSEMBLY**

**July 1, 1975 through June 30, 1976**

**Printed Under the Direction of the  
State Budget and Control Board**

# SECOND ANNUAL REPORT

of the

## **SOUTH CAROLINA SECOND INJURY FUND**

to the

## **GENERAL ASSEMBLY**

**July 1, 1975 through June 30, 1976**



SECOND ANNUAL REPORT

**LETTER OF TRANSMITTAL**

Columbia, S. C., July 1, 1976

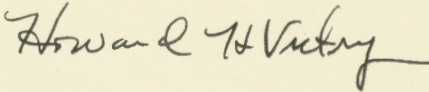
TO: His Excellency, the Governor of South Carolina, The Honorable Members of the Senate and House of Representatives, Columbia, South Carolina.

Gentlemen:

I am pleased to report herein the activities of the South Carolina Second Injury Fund for the fiscal year 1975-1976.

Respectfully submitted,

Howard H. Victry,



Director

July 1, 1975 through June 30, 1976

State Budget and Control Board

## HISTORICAL DEVELOPMENTS:

Second Injury Funds, also commonly referred to as Subsequent Injury Funds or Double Disability Funds, are set up within the administrative framework of the Workmen's Compensation system to insure that an employer who hires a handicapped worker will not, in the event such worker suffers a subsequent injury on the job, be held liable for a greater disability than actually occurred while the worker was in his employment. Under such a system, the employer pays only the cost of the subsequent injury.

### SOUTH CAROLINA SECOND INJURY FUND

(1) Howard H. Victry

Director

(2) Olan A. Hembree, Jr.

Administrative Assistant

## ADMINISTRATION:

The administration of the Second Injury Fund has remained relatively unchanged. The Fund is administered by a Director, Administrative Assistant, Secretary, Clerk Steno and an Investigator. These individuals are responsible for the major areas of activity — claims, finance and employer-employee education.

Claims handling consists of receiving and processing claims against the Fund. This includes investigation, evaluation and developing a course of action as well as reaching a disposition in each case. All fatal cases reported to the South Carolina Industrial Commission are reviewed by the staff;



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## **HISTORICAL DEVELOPMENTS:**

Second Injury Funds, also commonly referred to as Subsequent Injury Funds or Special Disability Funds, are set up within the administrative framework of the Workmen's Compensation system to insure that an employer who hires a handicapped worker will not, in the event such worker suffers a subsequent injury on the job, be held liable for a greater disability than actually occurred while the worker was in his employment. Under such a system, the employer pays only the benefits that are due for the second injury. This creates additional employment opportunities for disabled workers by removing an employer's fear of increased Workmen's Compensation cost. This system of apportionment varies from state to state, and a discussion of how the employer in South Carolina is reimbursed or how his liability is limited when the handicapped worker sustains a subsequent injury is found in a later section.

The Workmen's Compensation Law in South Carolina has contained provisions for Second Injury Fund benefits to insure employees since the law was enacted in 1936. Inadequate funding and the narrow scope of the law prevented effective utilization of the Fund by employers and employees. In 1972 the act was amended creating a broad-coverage Second Injury Fund and again amended in 1974 establishing the Fund as a separate state agency.

## **ADMINISTRATION:**

The administration of the Second Injury Fund has remained relatively unchanged. The Fund is administered by a Director, Administrative Assistant, Secretary, Clerk-Steno and an Investigator. These individuals are responsible for the major areas of activity — claims, finance and employer-insurance carrier education.

Claims handling consists of receiving and processing claims against the Fund. This includes investigation, evaluation and developing a course of action as well as reaching a disposition in each case. All fatal cases reported to the South Carolina Industrial Commission are reviewed by the staff;



and in the absence of dependents or next-of-kin in fatal Workmen's Compensation cases, the Second Injury Fund is beneficiary of the commuted death benefits normally paid to the dependents or next-of-kin.

An Assistant Attorney General represents the Fund in all claims litigation. The Attorney also researches points of law whenever an interpretation of the Second Injury Fund Statute is necessary. This research is important because of the lack of precedent pertaining to the Second Injury Fund in this state.

The educational responsibilities include seminars, public meetings and meetings with civic groups, employers and insurance carriers — all in an effort to explain Fund provisions and requirements. In the past, these activities continued throughout the year. During the fiscal year 1975-76 emphasis was placed on one major activity. A statewide seminar was held on March 25, 1976. We were able to obtain the assistance of the Chief Attorney for the New York Second Injury Fund, the Assistant General Counsel for the Florida Department of Commerce who oversees the activity of the Florida Second Injury Fund and the Director of the newly established Louisiana Second Injury Fund. In addition, Arthur Larson of the Duke University Law School was the main speaker. Various attorneys in South Carolina involved in the practice of Workmen's Compensation as well as representatives of the Industrial Commission participated in the program. Approximately 300 representatives of industry and insurance companies attended. The results were increasing employer awareness and activity against the Second Injury Fund.

The Fund is still a relatively new agency. The Director, Secretary and Administrative Assistant have inter-relating responsibilities. The entire operation is supervised by the Director with the Administrative Assistant handling most of the outside investigation. During the past fiscal year a Claims Investigator and Clerk-Steno were added to the Fund's staff to assist in outside investigation and additional clerical responsibilities.

The Administrative Assistant's responsibility is to train and



supervise the Claims Investigator and the Clerk-Steno. In addition, he is instrumental in directing the investigation of claims against the Fund, recommending acceptance or denial of cases, preparing cases for hearings and assisting with employer-carrier education.

The Secretary is responsible for supervising all clerical and bookkeeping functions.

### **STATUTORY AUTHORITY FOR THE AGENCY:**

Section 72-602 of the South Carolina Workmen's Compensation Law creates the Fund and establishes the agency to administer the Fund in accordance with the provisions in Section 72-601 and 72-601.1.

The following outline lists the basic requirements for reimbursement:

1. The employee must have a prior permanent physical impairment of such seriousness as to constitute a hindrance or obstacle to obtaining employment or re-employment.
2. (a) The employer must establish by written records that he had knowledge of the permanent physical impairment at the time the employee was hired or retained, and these records must be filed with the Industrial Commission and the Second Injury Fund when claim is made for reimbursement; or
  - (b) The employer may qualify for reimbursement if he can show proof that he did not have prior knowledge of the employee's pre-existing physical impairment, because the existence of such condition was concealed by the employee or was unknown to the employee.
3. The employee must sustain a subsequent occupational injury:
  - (a) Which results in the employer's liability for disability that is substantially greater than that which



would have resulted from the new injury alone because of a combination with or aggravation of the prior impairment.

- (b) Which most probably would not have occurred "but for" the presence of the prior impairment; or
- (c) Which results in the death of the employee, and the death would not have occurred except for the pre-existing impairment.

The Second Injury Fund principle requires that costs of the benefits payable be allocated between the employer or insurer on one hand, and the Second Injury Fund, on the other. It is most common for the employer or his insurer to pay the disability caused by the second injury and the Second Injury Fund to make up the difference between the employer's liability and whatever is payable as a whole. In revising the Second Injury Fund in South Carolina, the Legislature attempted to establish a system of reimbursement that would eliminate a controversy over proportionate sharing in particular cases and expedite the other determinations that need to be made in order that the employee or his beneficiaries receive payments. For this reason, the 78 week rule was established requiring the employer to pay the first 78 weeks of disability. Thereafter, this same employer is eligible to receive reimbursement from the Second Injury Fund for all remaining benefits.

Before the Fund can reimburse an employer, a handicapped worker must suffer a subsequent injury. This injury must combine with or aggravate the prior impairment, thus causing liability greater than that which would have occurred from the subsequent injury alone. This is the basic concept of Second Injury Fund Legislation; and without this increase in liability, the employer has not been placed at a disadvantage. Therefore, he would not be eligible for reimbursement.

The South Carolina Legislature passed the two following amendments;

1. Section 72-601 subsection (f)

Effective date May 4, 1976

An employer or insurance carrier must report a reim-



bursement claim against the Fund no later than after payment of the first seventy-eight weeks of disability benefits. Previously, a claim had to be reported within seventy-eight calendar weeks following the injury.

2. Section 72-602 subsection (b)

Effective date May 26, 1976

The Fund must comply with the same procedures pertaining to agreements, settlements, litigation and appeals as do employers and employees.



## FINANCIAL STATEMENT

## FISCAL 1975-76

## Balance from previous year

1974-75 .....	\$615,536.00
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## Disbursements

Reimbursements made by Fund .....	\$185,689.00
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Administrative Costs .....	72,055.00
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Total .....	\$257,744.00
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## Balance in Fund after reimbursements

and administrative costs .....	\$357,792.00
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## Receipts

Investment Interest .....	\$ 21,588.00
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Death Benefits (Lapsed Death) .....	76,030.00
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Total .....	\$ 97,618.00
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## Subtotal of Funds at end of

fiscal year 1975-76 .....	\$455,410.00
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## Seminar

Receipts .....	\$ 4,505.00
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Disbursements .....	3,638.00
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## Total (extraordinary receipt

balance to Fund) .....	\$ 867.00
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## Total Funds at end of

fiscal year 1975-76 .....	\$456,277.00
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## ASSESSMENTS

Assessments to self-insured employers, workmen's compensation insurance carriers and the South Carolina State Workmen's Compensation Fund.

Total Funds on June 30, 1976 .....	\$456,277.00
175% of Disbursements 1975-76 .....	451,052.00

Since the amount remaining in the Fund at the end of the fiscal year exceeds 175% of the disbursements made during the same fiscal year, no assessments will be made.

Because disbursements made by the Fund during the 1976-77 fiscal year will most probably exceed 175% of the assets remaining in the Fund as of July 30, 1977, assessments will be made to the self-insureds and insurance carriers. More information concerning these assessments will be generated at a later date.



### CLAIMS ACTIVITY AGAINST FUND

Claims carried from 1974-75 .....	92
Claims against Fund .....	285
Claims closed .....	111
Claims open at end of fiscal year 1975-76 .....	266
Estimated liabilities against Fund as of June 30, 1976 .....	\$1,913,202
Increase in claims against Fund 1975-76 as compared to 1974-75 .....	285%
Increase in claims open at end of 1976 compared to 1975 .....	289%
Total Claims paid .....	29
Average disbursement per case .....	\$6,403.00

### LAPSED DEATH BENEFITS PAID INTO FUND

Fatal Cases Reviewed .....	154
1. Above cases fully investigated or litigated .....	8
2. Recovery .....	\$ 76,030

### HEARINGS AND OTHER LEGAL PROCEEDINGS

Proceedings Attended .....	128
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### EDUCATIONAL ACTIVITIES

1. Statewide conference in Columbia, South Carolina, March 25, 1976. Approximately 300 representatives from industry and insurance companies attended.
2. Fund representatives participated in Self-Insured annual conference.
3. Other miscellaneous meetings with employers or insurance carriers ..... 21

**TOTAL DOLLARS PAID BY THE SECOND INJURY FUND  
TO INSURANCE COMPANIES OR SELF-INSURED FOR  
FISCAL YEAR 1975-76**

**Claims — Fiscal 1975-76**

**By Carrier**

Aetna Casualty & Surety Co. ....	\$ 10,318.00
American Mutual Liability Ins. Co. ....	6,000.00
Argonaut Insurance Companies .....	3,969.00
Commercial Union Assurance Co. ....	1,010.00
Employer's Insurance of Wausau .....	9,507.00
Employer's Fire Insurance Co. ....	7,305.00
Fidelity & Guaranty Insurance Underwriters .....	6,274.00
Hartford Accident & Indemnity Co. ....	10,174.00
Liberty Mutual Insurance Co. ....	29,681.00
Pacific Employers Insurance Co. ....	665.00
Springs Mills, Inc. ....	18,446.00
Shedd- Bartush Foods, Inc. ....	14,166.00
State Workmen's Compensation Fund .....	44,545.00
The Randolph Hope Co., Inc. ....	16,645.00
Utica Mutual Insurance Co. ....	6,000.00
Miscellaneous Claims Handling Expense .....	983.00
Total .....	\$185,689.00



**INDIVIDUAL EMPLOYERS BENEFITING FROM REIMBURSEMENTS PAID TO INSURANCE COMPANIES OR SELF-INSURED EMPLOYERS BY THE SECOND INJURY FUND**

Employer	Location	Amount
Bonitz Insulation Co.	Cola., S. C. ....	\$ 3,250.00
Chas. City School Dist.	Chas., S. C. ....	17,109.00
City of Cola.	Cola., S. C. ....	8,165.00
Cone Mills	Walhalla, S. C. ....	5,127.00
Gas Fired Prod.	Lake City, S. C. ....	6,821.00
Graniteville Co.	Graniteville, S. C. ....	6,000.00
Greenville City Council	Greenville, S. C. ....	208.00
Kendall Co.	Pelzer, S. C. ....	4,304.00
Kimberly Clark Corp.	Beech Island, S. C. ....	484.00
Kline Iron & Steel Co.	Cola., S. C. ....	976.00
**Lentz Ford	Cola., S. C. ....	5,479.00
McLeod Memorial Hops.	Florence, S. C. ....	4,748.00
Michelin Tire Co.	Greenville, S. C. ....	6,274.00
Montgomery Mills	Chesnee, S. C. ....	3,799.00
Nalews, Inc.	Laconia, N. H. ....	10,174.00
Owen Misc. Metals	Cayce, S. C. ....	3,748.00
Parker Sewer Dist.	Greenville, S. C. ....	19,062.00
Ryder Systems	Santee, S. C. ....	666.00
*Shield - Bartush Foods, Inc.	Greenville, S. C. ....	14,166.00
Southern Weaving Co.	Mauldin, S. C. ....	6,000.00
Spartan Mills Corp.	Spartanburg, S. C. ....	14,504.00
*Springs Mills, Inc.	Fort Mill, S. C. ....	18,446.00
**Star Pontiac & Cadillac, Inc.	Beaufort, S. C. ....	11,165.00
Starr Mills Corp.	Starr, S. C. ....	3,969.00
Square D	Cola., S. C. ....	1,010.00
T. G. Williams	Greenville, S. C. ....	1,533.00
Thurston Motor Lines	Cola., S. C. ....	5,570.00
Union Bleachery	Greenville, S. C. ....	1,948.00
Subtotal .....		\$184,706.00
Miscellaneous claims handling Expense .....		983.00
Total .....		\$185,689.00

\* Self-Insured Employer

\*\* Members of Self Insured Fund



## CLAIMS REPORTED BY:

## A. Insurance carriers

Aetna Casualty and Surety Co. ....	13
Aetna Insurance Co. ....	1
Allstate .....	3
American & Foreign Insurance Co. ....	1
American Motorist .....	6
American Mutual Liability Insurance Co. ....	22
Centennial Insurance .....	1
Commercial Union Assurance Co. ....	2
Continental Insurance Co. ....	9
Employer's Fire Insurance Co. ....	1
Employer's Insurance of Wausau .....	17
Excalibur Insurance Co. ....	1
Federal Mutual Insurance Co. ....	1
Fidelity & Casualty Co. of New York .....	4
Fidelity & Guaranty Insurance Underwriters .....	8
Fireman Insurance of Newark .....	1
Georgia Casualty & Surety Co. ....	1
Great American Insurance Co. ....	1
Hartford Insurance Co. ....	3
Home Insurance Co. ....	9
Ind. Indemnity Insurance Co. ....	1
Insurance Co. of North America .....	5
Kansas City Fire & Marine Co. ....	4
Liberty Mutual Insurance Co. ....	44
Lumberman's Mutual Insurance Co. ....	2
The Maryland .....	6
Michigan Mutual Insurance Co. ....	2
Old Colony Insurance Co. ....	1
Pacific Employer's Insurance Co. ....	2
Reliance Insurance Co. ....	1
Royal Indemnity Co. ....	1
Seaboard Fire & Marine Co. ....	16
Southern Farm Bureau .....	2
Standard Fire Insurance Co. ....	6
State Farm Insurance Co. ....	1
State Workman's Compensation Fund .....	19
Transport Insurance Co. ....	5
Travelers Insurance Co. ....	4



U. S. F & G .....	7
United States Fire Insurance Co. ....	1
Utica Mutual .....	1
Zurich American .....	1

#### B. Self-Insured Servicing Companies

Hewitt Coleman .....	2
Randolph Hope Co. ....	26

#### C. Self-Insured Employers

A & P Co. ....	1
Dixie Darling Bakery .....	1
Beatrice Foods Co. ....	1
B. F. Goodrich .....	1
International Paper Co. ....	3
Litton Industrial System Inc. ....	1
Mobile Chemical Co. ....	1
Munford Inc. ....	1
Phillips Fibers .....	1
Pilot Freight Carriers .....	1
Sears Roebuck .....	1
Singer Co. ....	1
S. C. Electric & Gas Co. ....	1
Springs Mills .....	3
Westvaco .....	1
Winn Dixie .....	1